

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MARLENE PREBISH,
Plaintiff

v.

NANCY A. BERRYHILL,
Deputy Commissioner for
Operations, performing the
Duties and functions not reserved
To the Commissioner
of Social Security,
Defendant

: No. 3:18cv710
:
: (Judge Munley)
:
: (Magistrate Judge Carlson)
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:
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ORDER

AND NOW, to wit, this 28th day of June 2019, we have before us for disposition Magistrate Judge Martin C. Carlson's report and recommendation, which proposes the granting plaintiff's request for a new administrative hearing in this Social Security appeal. No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

1) The magistrate judge's report and recommendation (Doc. 16) is

ADOPTED;

2) The Commissioner's final decision denying plaintiff's claims is hereby

VACATED;

3) Plaintiff's request for a new administrative hearing is **GRANTED;**

4) The Clerk of Court is directed to remand this case to the Commissioner for a new administrative hearing consistent with the magistrate judge's report and recommendation; and

5) The Clerk of Court is directed to enter judgment in favor of plaintiff and against the defendant and to close this case. and

BY THE COURT:



JUDGE JAMES M. MONLEY
United States District Court